

Message Text

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INFO OCT-01 NEA-09 TRSE-00 EB-07 OPR-01 AID-05 ISO-00 /025 R

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DRAFTED BY: L/NEA:BKHUFFMAN:TK

APPROVED BY: NEA:SSOBER

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EB/CBA:JNESVIG

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----- 117130

O R 120144Z FEB 75

FM SECSTATE WASHDC

TO AMEMBASSY JIDDA IMMEDIATE

INFO AMEMBASSY AMMAN

AMEMBASSY CAIRO

AMCONSUL DHAHRAN

AMEMBASSY NEW DELHI

AMEMBASSY TEHRAN

AMEMBASSY TEL AVIV

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E.O. 11652: N/A

TAGS: USSAEC, EAID, SA, US

SUBJECT: TCA READY FOR SIGNATURE WITH MINOR CHANGES

REFS: (A) JIDDA 927, (B) JIDDA 1025, (C) STATE 22592

1. FOLLOWING ARE COMMENTS ON DRAFT TCA IN THEIR ORDER OF SIGNIFICANCE.

2. PARAGRAPH 3

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A. WE CONTINUE TO DESIRE REFERENCE IN PARAGRAH 3 TO

"MUTUALLY AGREED COST ESTIMATES' AS RECOMMENDED REF C. THEORY OF ALL PREVIOUS U.S. DRAFTS HAS BEEN THAT SAG WOULD DEPOSIT IN DOLLAR TRUST ACCOUNTS FUNDS ESTIMATED TO BE NECESSARY TO COVER PROJECT COST. THIS CONCEPT REMAINS IN PARAGRAPH 5 (A). WITHOUT PROVISION REQUIRING ESTIMATING OF COSTS, TREASURY, AS USG AGENCY COORDINATING IMPLEMENTATION OF TCA, CONCERNED THAT PROTRACTED DISAGREEMENTS MIGHT OCCUR OVER JUSTIFICATION OF ACTUAL COSTS. SPECIFIC REFERENCE TO "ESTIMATES" WOULD IMPLY DEPOSITS WOULD BE MADE ON BASIS OF GENERAL COST PROJECTIONS AND PROVIDE BETTER ASSURANCE PROJECTS WOULD NOT GET BOGGED DOWN WITH PRELIMINARY ACCOUNTING DETAILS.

B. LESS SIGNIFICANT PROBLEM IS CONTINUED SAUDI DESIRE TO USE PASSIVE VOICE IN PARAGRAPH 3 ("ACCORD MAY BE REACHED") WHICH LEAVES IT UNCLEAR WHO MAY REACH IT. WE PRESUME THIS IS INTENTIONAL PROJECTION OF SAUDI BUREAUCRATIC PROBLEM. REQUEST YOU SEEK INSERTION OF PHRASE "BETWEEN REPRESENTATIVES OF THE TWO GOVERNMENTS" BEFORE WORDS "IN THE CONTEXT OF THIS AGREEMENT."

C. ON MORE TECHNICAL PLANE, SUGGEST WORDS "AND PROFESSIONAL" BE ADDED BETWEEN WORDS "TECHNICAL" AND "SERVICES" TO CONFORM TO TERMINOLOGY IN PARAGRAPH 1. FORMULATION PROPOSED REF C WAS INTENDED TO INCLUDE CONTRACT MANAGEMENT SERVICES IF REQUESTED BY SAG. REQUEST YOU CONFIRM CURRENT FORMULATION COULD ALSO ENCOMPASS SUCH SERVICES.

D. IF SAG AGREEABLE TO FOREGOING CHANGES, FIRST AND SECOND SENTENCE PARAGRAPH 3 MIGHT BE COMBINED AS FOLLOWS: QTE: ACCORD MAY BE REACHED BETWEEN REPRESENTATIVES OF THE TWO GOVERNMENTS IN THE CONTEXT OF THIS AGREEMENT THAT THE UNITED STATES GOVERNMENT, IF SO REQUESTED BY THE GOVERNMENT OF SAUDI ARABIA, WILL UNDERTAKE THE PREPARATION OF TECHNICAL OR ECONOMIC STUDIES OF SPECIFIC DEVELOPMENT PROJECTS AND PROVIDE TECHNICAL AND PROFESSIONAL SERVICES FOR THE IMPLEMENTATION OF THESE PROJECTS IN ACCORDANCE WITH MUTUALLY AGREED COST ESTIMATES AND THE PROVISIONS OF THIS AGREEMENT. UNQUOTE.

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3. IF REFERENCE TO ESTIMATES IN PARAGRAPH 3 REMAINS STICKING POINT, YOU MIGHT ALTERNATIVELY INSERT WORDS "PURSUANT TO AGREED COST ESTIMATES" BEFORE WORDS "OR ANY INCREASED COST" IN PARAGRAPH 5 (A).

4. WE HAD INSERTED REFERENCE TO TAXES IN LAST SENTENCE OF PARAGRAPH 3 IN EFFORT TO ENSURE SAG PAID TAXES INCURRED BY USG CONTRACTORS. SINCE SAG WISHES DEAL WITH TAX

PRIVILEGES FOR CONTRACTORS IN EACH CONTRACT, (WHICH IS ACCEPTABLE TO US) WE WONDER IF IMPLEMENTATION OF TCA MIGHT NOT BE SIMPLER IF USG WERE EXEMPTED FROM SAUDI TAXES JUST AS AMCIT, USG EMPLOYEES ARE EXEMPTED BY PARAGRAPH 7. EXEMPTION COULD BE ACCOMPLISHED BY SUBSTITUTING WORDS "AND EXEMPT USG FROM" FOR WORDS "AS WELL AS" IN LAST SENTENCE PARAGRAPH 3.

5. ANY SUBSTANTIVE TEXTUAL CHANGES SHOULD BE SENT IN NIACT IMMEDIATE. IMPROVEMENTS SOLELY IN FORM OR PUNCTUATION ARE FOR YOUR DISCRETION.

6. IN TYPING FINAL TEXT OF AGREEMENT LETTERS IN SUB-PARAGRAPHS SHOULD BE IN LOWER CASE. AGREEMENT SHOULD

REFER EITHER TO "ARTICLES" OR TO "PARAGRAPHS" AND NOT TO BOTH.

7. WHEN AGREEMENT IS SIGNED REQUEST YOU FORWARD ORIGINAL COPIES IN ENGLISH AND ARABIC TO ATTENTION OF ASSISTANT LEGAL ADVISER FOR TREATY AFFAIRS, PER 11 F.A.M. 723.7 (FORMERLY FAM 735).

8. IN ACCORDANCE WITH 11 FAM 722.6 (B), DEPARTMENT AUTHORIZES DCM TO CERTIFY CONFORMITY OF ENGLISH AND ARABIC TEXTS PRIOR TO SIGNATURE. MEMORANDUM CERTIFYING CONFORMITY SIGNED BY HIM SHOULD BE FORWARDED TO DEPARTMENT WITH TEXTS.

9. FYI: IT IS OUR HOPE AND DESIRE THAT TCA BE SIGNED WITHIN NEXT SEVERAL DAYS. WE SHARE ABA AL-KHAYL'S DESIRE THAT NOTHING BE DONE TO REQUIRE RESUBMISSION OF TCA TO COUNCIL OF MINISTERS(PARA 2, JIDDA 927). WE WOULD NOT LIMITED OFFICIAL USE

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THINK FINAL MINOR CHANGES SUGGESTED ABOVE ARE OF NATURE TO REQUIRE SUCH RESUBMISSION. ACCORDINGLY REQUEST YOUR BEST EFFORTS WITH CHANGES SUGGESTED ABOVE, ESPECIALLY THAT ON ESTIMATING COSTS (PARA 2A ABOVE) WHICH WE REGARD AS NECESSARY INSURANCE AGAINST LATER PROBLEMS AND MIS-UNDERSTANDINGS. IF HOWEVER, THIS OR OTHER CHANGES APPEAR TO BE LEADING SAUDIS TO CONCLUSION TCA MUST GO BACK TO COUNCIL OF MINISTERS, YOU SHOULD SO ADVISE US IMMEDIATELY. END FYI.
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